

MISSISSIPPI PUBLIC DEFENDERS

Ensuring Equity Before 18: Juvenile Justice and Implicit Bias



INTRODUCTIONS

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IMPLICIT BIAS: WHAT IS IT?



WHAT IS IMPLICIT BIAS?

- Implicit bias is when someone consciously rejects stereotypes and supports anti-discrimination efforts but also holds negative associations in his/her mind unconsciously.
- Based upon visual and aural cues, individuals make automatic judgments about what category a particular person fits within, and we often act on those judgments.



WHAT IS IMPLICIT BIAS?

- Implicit bias begins in the limbic system (which serves primal survival needs) and emerges from brain stimuli and schema.
- According to brain science, biases are often positively or negatively triggered by past experiences, memories, and conditioning and, thus, different things unintentionally get linked together.



WHAT IS IMPLICIT BIAS?

- Discrimination may occur without awareness or intentions even when perceivers have complete control over their actions.
- Implicit bias operates at every single decision point as a person enters, moves through and exits the system.
- Americans have a frame for stories about crime that include certain kids as perpetrators.



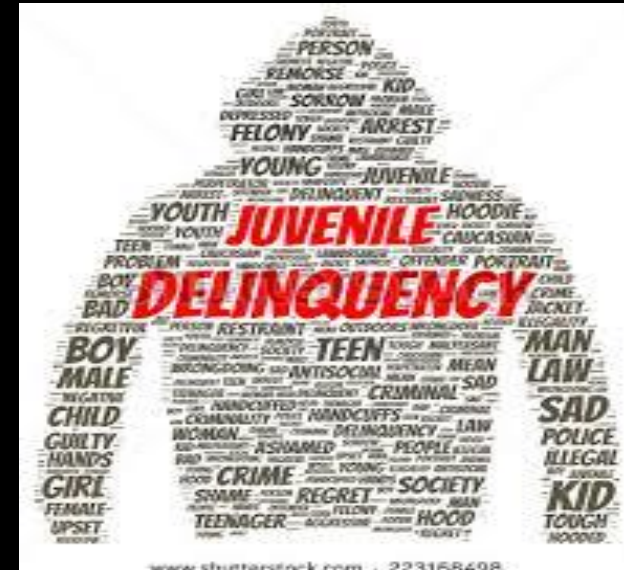
WHAT IS IMPLICIT BIAS?

- Things become less constructive and more violent when the brain, which automatically generalizes, starts to categorize people and conclude things about them in ways that are unproductive and discriminatory.
- Implicit bias does not mean that people are hiding their racial prejudices. They literally do not know they have them.
- According to brain science, biases are often positively or negatively triggered by past experiences, memories, and conditioning and, thus, different things unintentionally get linked together.



IMPLICIT BIAS

- **Implicit Bias encourages:**
 - **Schemas-mental maps or templates**
 - **Stereotypes**
 - **Prejudice**
 - **Discrimination**



HOW DOES IMPLICIT BIAS IMPACT OUR DAILY LIVES?

- Implicit bias informs us how to behave or respond in a given situation.
- It can affect people's decisions and their behavior toward people of other races.
- Implicit bias creates embedded stereotypes that heavily and arguably always influence our decision-making without our conscious knowledge.
- Once a group or category has been defined through brain processes and cultural conditioning, humans tend to exaggerate.



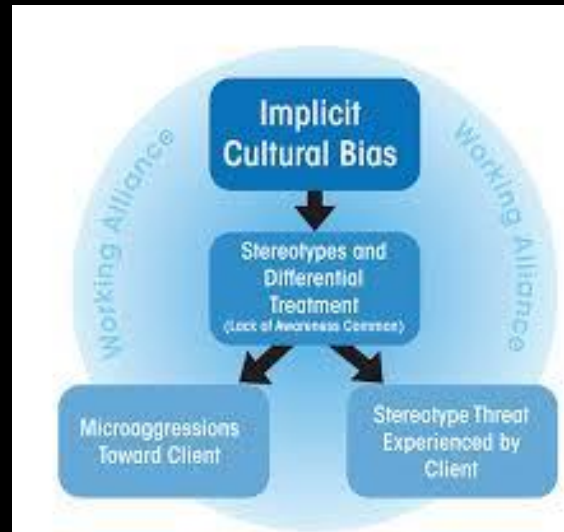
IMPLICIT BIAS

- Where is it in the juvenile justice system?



WHERE IMPLICIT BIAS IS PRESENT IN JUVENILE JUSTICE?

- **Minority Over Representation**
- **Disproportionate Minority Contact**
- **Disparate treatment of youth of color compared to white youth**
- **Overrepresentation of youth of color in the juvenile justice system**



WHERE IMPLICIT BIAS IS PRESENT

- Unnecessary entry and movement deeper into the juvenile justice system by youth of color.
- When youth of color are arrested when they could be diverted from the system, or when they are held in secure detention when they could be released to community based alternative programs.



LEGISLATIVE ATTEMPTS TO MINIMIZE BIAS IN THE JUVENILE JUSTICE SYSTEM

- **Juvenile Justice and Delinquency Prevention Act**
- **Bias in juvenile justice recognized as a national concern in 1988 when the U.S. Congress passed amendments to the Juvenile Justice and Delinquency Prevention Act of 1974 directing attention to “Disproportionate Minority Contact.”**
- **Congress required states to analyze the number of youth in confinement to determine if those proportions were larger than their proportions in the general populations. States that discovered disproportionality were then charged with finding solutions.**



HOW DOES IMPLICIT BIAS IMPACT OUR JUVENILE LEGAL SYSTEM



IMPLICIT BIAS AND JUVENILE JUSTICE DECISION MAKING

- Key decision makers are known to hold bias.
 - Public Defenders
 - Judges
 - Law Enforcement Officers
 - Indigent Juvenile Defenders
 - Prosecutors
 - Probation Officers



COMMON SOURCES OF IMPLICIT BIAS IN THE JUVENILE JUSTICE SYSTEM AND DECISION MAKING

- Law enforcement decisions and reports
- Diversion decisions
- Detention intake decisions
- Decisions made by prosecutors and defenders
- Presentations made by prosecutors and defenders



COMMON SOURCES OF IMPLICIT BIAS IN THE JUVENILE JUSTICE SYSTEM

- Judicial decisions
- Recommendations in mental health studies
- Recommendations in pre-disposition reports
- Decisions made by probation officers



COMMON SOURCES OF IMPLICIT BIAS IN THE JUVENILE JUSTICE SYSTEM

- Recommendations and reports from probation
- Treatment and placement decisions
- Racial priming



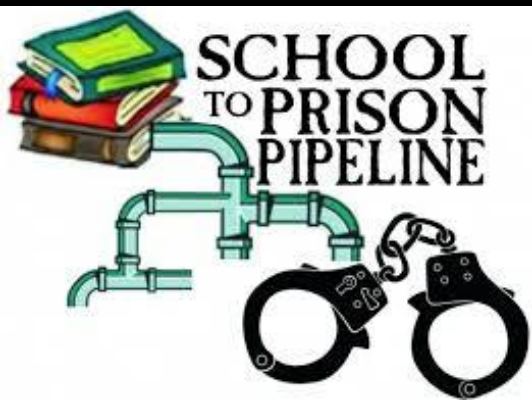
COMMON SOURCES OF IMPLICIT BIAS IN THE JUVENILE JUSTICE SYSTEM

- Media influences as a driver of unconscious attitudes or biases.
- Representation of “super-predator” youth in the media might partially contribute to bias among juvenile justice decision makers.
- May intensify any unconscious attitudes or biases already held by such decision makers.



IMPACT OF IMPLICIT BIAS ON JUVENILES

- **Early** biased decisions “load the pipeline” in terms of who tends to penetrate the system further.
- A condition that could strengthen certain stereotypes for later decision makers.
- Those who are subject to the justice system also have implicit biases coloring their responses to decision makers.
- The reciprocal process between actors sets the state for a self-fulfilling prophecy that can “confirm” one’s implicit beliefs.



IMPLICIT BIAS IN JUVENILES AND THEIR PARENTS OR GUARDIANS: WHAT DOES IT LOOK LIKE?

- Negative assumptions about public defender and legal system
- Distrust or lack of faith in PD or legal system.
- Resistance to Assistance
- Automatic assumptions about PD attitudes toward discrimination



COMMON SOURCES OF IMPLICIT BIAS AND PUBLIC DEFENDERS

- How we perceive our clients
- Snap judgements about innocence or guilt
- Decisions about who deserves fair representation
- Decisions about the “rehabilitative success” of client
- How we construct and present our cases
- Dedication and faith in our case
- Worthiness of client
- Patronization

**"The worst
distance
between two
people is
misunderstanding"**

IMPLICIT BIAS

- How do we know if it is happening to us?



SYMPTOMS OF IMPLICIT BIAS

- Feelings of anxiety, frustration, and anger
- Physical changes like changes in respiration, heart beat, sweatiness, pain
- Flight or fight response
- Addled thinking
- Resistance to or procrastination



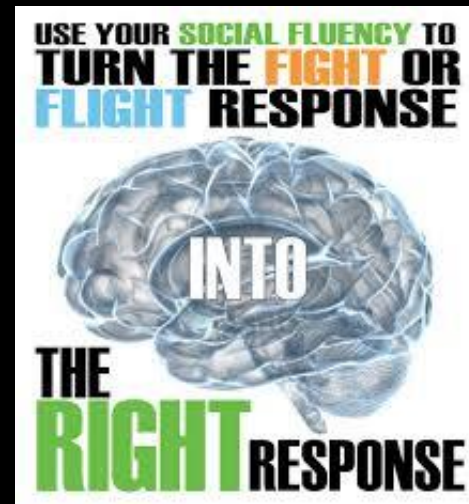
IMPLICIT BIAS

- How Do I reduce Implicit Bias in *Myself*?



HOW CAN I MAKE CHANGE?

- Understand yourself
- Recognize your relationship to internal and external bias
- Remember your responsibility—Advocate for the juvenile
- Don't "act in best interest of the child" This can lead to acting on implicit bias
- Avoid "gut feelings"



HOW CAN I REDUCE IMPLICIT BIAS IN THE JUVENILE JUSTICE SYSTEM?

- ***Education***—Be aware that implicit bias exists and that it is a normal and widespread consequence of being human.
- ***High Effort Processing***: Carefully examine the information with which you are faced and consider your potential thinking errors. We need to watch errors rooted in heuristics (our gut instincts or mental roles) that reflect our “ordinary personology.”

Action
Changes
Things

HOW CAN I REDUCE IMPLICIT BIAS IN JUVENILE JUSTICE SYSTEM

- ***Cognitive Load***—Watch for overload. Pertains to the amount and complexity of information one has to process in any given time frame. Under conditions of high cognitive load, it can be difficult to thoroughly and carefully analyze all the information presented. Reducing cognitive load can provide critical time to consider information and make decisions
- ***Mindfulness***—Drawn from the cognitive behavioral therapies that encourage being in the moment, understanding your thought processes, developing awareness and challenge thinking errors.



HOW CAN I REDUCE IMPLICIT BIAS AS A PUBIC DEFENDER?

- **Exposure**—Exposure to people different than you can help counteract biased thinking about that group.
- **Environment**—Be aware of cues within our environment
 - They can have subtle but pronounced influence on our thinking and behavior.
 - Aggressive stimuli encourage aggressive actions
- **Organizational Review** — Review roles and power structures to illuminate inherent bias. If imbalance in power.



HOW CAN I REDUCE IMPLICIT BIAS AS A PUBLIC DEFENDER?

- **Checklists**—Develop and employ checklists at various key decision points to encourage less biased decisions by providing an objective framework to assess your thinking and subsequent decisions.
 - A methodical approach can serve to reduce cognitive load by introducing more time into the decision making process.
- **De-biasing**—Make sure that external checks and balances exist.
 - Create safeguards to “correct for” biased decisions.
- **Look to other fields** —Explore the effects of social cognition and implicit bias on organizational functioning.



I CAN I REDUCE IMPLICIT BIAS AS A PUBLIC DEFENDER?

- Use cross system collaboration
- Investigate and alter data practices
- Create better cultural and community responsiveness
- Investigate policy and practice for bias
- Devise programs



HOW CAN I REDUCE IMPLICIT BIAS AS A PUBLIC DEFENDER?

- Assess your approach in preparing for and engaging client interactions
- Assess your defense and strategies
- See and understand your client as individuals rather than defendants
- Change course immediately if bias is present
- Apologize to client and related folks
- Avoid being triggered by other people's bias
- Point out bias in others involved in legal system





CONCLUSIONS

- Themes
- Questions?